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CAPE OF GOOD HOPE  
REPORT AND PROCEEDINGS  
OF THE  
COMMITTEE OF THE LEGISLATIVE COUNCIL  
ON THE  
WYNBERG RAILWAY BILL.



Published by order of the Legislative Council

1861

CAPE TOWN  
SAUL SOLOMON AND CO. STEAM-PRINTING OFFICE.  
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# REPORT.

OF THE

SELECT COMMITTEE, appointed by RESOLUTION of the LEGISLATIVE COUNCIL, on the 23rd July, 1861, on the Bill "For Incorporating the Wynberg Railway," with power to examine Witnesses and call for Papers.

PRESENT :

Mr. WICHT (Chairman),

Mr. de Wet,  
Mr. Stein,

Mr. de Roubaix,  
Mr. van Breda.

Your Committee beg to report that they have examined the following gentlemen : Messrs. Eksteen, Reid, Watson, Kotzé, Wrensch, Mostert, Alewyn, and Brounger, whose evidence they now beg to submit for the consideration of the Council.

J. H. WICHT, Chairman.

Committee Rooms, 30th July, 1861.



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## PROCEEDINGS OF COMMITTEE.

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*Monday, 29th July, 1861.*

PRESENT :

Mr. WICHT (Chairman),

Mr. de Wet,  
Mr. de Roubaix,

Mr. Stein,  
Mr. von Maltitz.

Messrs. M. J. Alwyn, J. C. Wrensch, and A. S. Mostert, three of the petitioners against the passing of the bill in its present shape, stated that they agreed generally with the evidence of Mr. Eksteen.

Mr. J. W. Eksteen examined.

Messrs. Alewyn, Wrensch, and Mostert concur.

Committee adjourns to to-morrow at half-past 10.

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*Tuesday, 30th July, 1861.*

PRESENT :

Mr. WICHT (Chairman),

Mr. Stein,  
Mr. de Wet,

Mr. van Breda,  
Mr. de Roubaix.

Mr. Reid examined.

Mr. Watson examined.

Mr. Kotze examined.

Mr. Brounger examined.

Committee in deliberation.

Resolved to submit the evidence taken for consideration of Council.





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# MINUTES OF EVIDENCE.

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## WYNBERG RAILWAY BILL COMMITTEE.

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*Monday, 29th July, 1861.*

PRESENT :

Mr. WICHT (Chairman).

Mr. de Wet,

Mr. de Roubaix,

Mr. Stein,

Mr. von Maltitz.

Mr. *J. W. Eksteen* examined.

1. *Chairman*]. You are one of the parties who signed the first petition presented to the Council on the subject of the Wynberg Railway Bill?—I am. [Petition read].

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2. You are a large landed proprietor in the village of Mowbray, through which this projected railway is to pass?—Yes.

3. Are you aware of any definite line being described on the plan, or has any line been shown to you?—It is only from the plan that I can say where the railway has to pass.

4. There is no allusion then to it in the bill except a general reference to certain plans?—All that I know about the line is from what I have seen on the plan. No line has been pointed out to me except in the plan now on the table and bearing the signature “P. Bosman, Chairman of Committee of the House of Assembly.” I am sure, however, that this is the plan I saw in the Assembly, because I know it by a mark made by myself on it in pencil.

5. Has the line been staked out, or has it been pointed out to the landed proprietors where it is to pass?—I merely saw the surveyor going over my ground, and I never interfered with him except to tell him that if he wanted assistance I was willing to aid him, and also to give him any refreshment if he required it. All that I asked him was, one day when he was busy in the centre of my vineyard, “where do you suppose the line will come, through the vines?” To which he replied “I think it will come in that direction,”

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pointing out to me where he meant. That is all he said, but I saw no posts put up, except those which he used in taking his measurements.

6. Mr. *de Wet*.] Suppose this bill were decided on, and a person were to bring you to any spot on your place and say: "Now show me where the line is to run," have you any marks or signs by which you could point out the line as marked off by the surveyor?—Not one. All I can do is to take you to the spot where he stood when he told me in which direction the line would come, and show you where he pointed.

7. *Chairman*.] According to the plan before the committee, the company reserves to itself the right of deviation three hundred feet on either side. Would that take up the greater part of your ground?—It will take up certainly the half of my ground. There will be three hundred feet on either side and the line itself thirty feet; in all six hundred and thirty.

8. Are you aware whether any embankments are to be raised there?—The surveyor told me that all over my land an embankment will be made, as far as my property goes.

9. Did he state the height above the ground?—No; I did not put that question. He was so busy that I did not like to interfere; but thought, never mind, let him go on. I can find out afterwards what is going to be done. In fact, I was very ignorant at that time about railroads and surveyors, and thought I had better keep silent so long, and see how the thing went on, and that it would be the wisest plan not to interfere with the man then by asking him questions.

10. Then it will cut your property as it were in two if an embankment is raised there?—My property may be represented by a perfect little square. Now instead of cutting it straight in the centre, it cuts it diagonally and spoils the whole property; whereas if it were cut evenly into two it would not much matter.

11. Mr. *de Wet*.] But according to the plan before the committee the line does run exactly through the centre of your property?—I see that from the plan, but that was not what the surveyor pointed out to me.

12. Why did you make the pencil mark on the plan to which you refer?—I had been measuring where the stations ought to come and had found that at that spot there ought to be a station, and I therefore made a little mark to recollect the place.

13. *Chairman.*] One part of your property will of course be lower than the other by being cut by the embankment in the manner to which you refer?—Yes; according to what the surveyor showed me on the ground it would not cut my property in a straight line.

14. Did the parties state also what provision there will be for entering and communicating with the ground on the other side, where embankments are to be raised?—No; I asked no questions whatever about that.

15. Whether it was to be arched over or crossed on a level?—No; I put no questions.

16. I see that the first of your objections in the petition is that the line is not properly described in the bill; the second is as to the embankments, and the third one is as to level crossings. Does that apply to the whole of your land, and did the party not point out what provision would be made to allow communication between the one part and the other if the railway runs through there?—Nothing was said to me. I made no enquiries whatever when the surveyor was busy surveying, because I was quite ignorant as to railroads.

17. *Mr. de Wet.*] Did he not consult you; did he not ask the question whether it would be better that the line should run through one part of your ground or through another?—No; he never asked me even for permission to come on my ground to survey it.

18. Have you been one of the applicants for establishing the railroad, or have you ever signed a petition in its favor? What I have done is this. There was a meeting on the subject one evening at Rondebosch, and they asked me to take shares in the railway, merely because they wanted my two shillings per share to pay the surveyor and other expenses in forming the line.

19. What line?—To form a railway line from Cape Town to Wynberg. I then took fifty shares with the object of assisting in paying for the expenses of the plan &c. But a few days afterwards, before I went to pay my deposit, I thought no, I shall not do it; it will not look well on my part first to take an interest in the thing and then to have nothing to do with it. I said to myself: as I am perfectly ignorant of the whole thing, by paying two shillings now, afterwards they will say: “Mr. Eksteen consented first and encouraged us by paying the deposit, and now he objects;”

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I shall rather withdraw and not take any more steps in the matter. They sent me three or four notices to attend meetings, but I never went; for I thought I shall rather first wait to see what will become of the matter. If I do go, being ignorant in regard to railways, they may force me into something which I may afterwards regret; and thought that there would always be time enough for me to support the undertaking if I saw everything went on in a proper way, and that there was fair play.

20. Did you in any manner inform them that you had withdrawn, and would have nothing further to do with the railway?—No, I never did. They asked me no questions, and I never said anything to them.

21. *Chairman.*] Then you did not subscribe?—No.

22. *Mr. Stein.*] Did you sign a list?—No.

23. Then you only promised to take fifty shares?—I think I did sign my name for fifty.

24. *Chairman.*] At the meeting you attended was any plan exhibited, or did they tell you where the line would go; whether it would pass by Camp Ground or through your place?—They never told me; but I think there was a report that the line would go through my place.

25. *Mr. de Roubaix.*] What induced you afterwards to withdraw and not take a part in the railway movement?—Because, as I have said, I was afraid that if I did pay my share of the expense, and went to meetings held on the subject, being perfectly unacquainted with railway matters, I might perhaps enter too much into the question, and then they would have me, as it were, tied to them, so that I could not get out again. To prevent that I thought I would not take any further step in the matter, nor even pay my two shillings per share, but rather withdraw entirely.

26. Then you came to that conclusion entirely from your own idea, and not from information from other parties?—Just so.

27. *Chairman.*] When they told you that a railroad was about to be established from Cape Town to Wynberg, and when you undertook to subscribe the two shillings, were you under the impression that the line would run across your property?—I thought it would cross somewhere about there.

28. Do you not know whether a project had not been started sometime before to carry the line round by Camp Ground?—I heard a report of that kind.

29. You state in the petition also, that if the power of deviation asked for by the company to the extent of 300 feet on either side be granted, it would impose such an "onerous servitude on your lands that they will be of very little value to you, and their tenure will become precarious, and cultivation consequently neglected." Do you still adhere to that opinion?—Yes.

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30. Then I see also that you object to the clause enabling the directors to enter upon all lands and dig for, excavate, and carry away all such materials as may be required. Do you think so still?—That is one of the principal clauses we object to, and we have good reason for doing so.

31. You think then there is no necessity to grant these parties this power?—No necessity whatever; and for this reason, that the engineer, Mr. Hart, when surveying, stated that thirty feet of land would be sufficient for the railroad, and on that thirty feet of land there would be enough material to complete the whole line, in the first place; and in the second place, there are present here three or four of the principal landowners, who are willing, if the ground should come short for completing the line, to sell land for a very moderate price, if that land will be taken where they will point out. Suppose that they refuse to do so, then according to the 17th clause, the company has the power of entering upon government land and getting material from it.

32. Then you think the act gives them sufficient power in that respect?—Decidedly; because there are government lands in the vicinity quite close by, and there are so many cross roads passing the line that they can take the ground any where; so that if they come short of ground they can get it from the property in the vicinity. It makes a deal of difference whether you come and take ground from the highest part of my property, or of my neighbour's property, or from one corner only. We are all for the line; we wish to promote it, to encourage it, and are willing to assist in its being carried out; all that we wish to guard against is, that they shall not come upon us with restrictions and laws that will really be oppressive to us, and owing to which the liberty of the inhabitants will be completely removed, as if we were not any longer proprietors of our own places.

33. Mr. *de Roubaix*.] You state that Mr. Hart gave it to you as his opinion that the width of thirty feet would be

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sufficient. Can you show the committee where that is stated?—It was read to us by the Chairman in the Assembly committee when we attended there to give evidence.

34. Mr. *de Wet*.] Am I to understand that the proprietors of the different places through which the line is to run, according to the plan before the committee, have never been called together at any meeting to have the plan submitted to them?—No, not that I know of; at all events, I have never been present.

35. Do you mean to say that you have never had an opportunity of criticising the plan except when you appeared before the Assembly Committee?—It was only then that I saw it for the first time.

36. Do I understand you, that you do not object yourself to the line running as laid down in the plan, but that you object to the conditions contained in certain clauses, whereby the engineer will have the power to enter upon your property and take gravel and other material for the purpose of the railway?—That was the principal objection. As far as concerns the line I have nothing to say. If it were in my power to alter it, so as to benefit the inhabitants more, I would do so of course; but if the company wish the line to remain as it is now, I do not care.

37. Do you object to the extent asked for being also added for the deviation of the line?—Decidedly. What we wish is that the line shall be shown us distinctly at once.

38. Without any allowance for deviation?—Yes.

39. Then if I understand you right you mean to say this: that the line as laid down shall also be described in the plan, and that you will not allow any alteration?—I do not exactly say that; I say if they do alter the line within the deviation, let them fix the line first before they make any arrangement with the inhabitants.

40. So that you say this should be finally determined upon before there is any legal enactment incorporating this company?—I should like to see where the line will come, and that will satisfy me.

41. Mr. *de Roubaix*.] Does not the plan satisfy you?—Well, let it remain as it is, if it is wished; I will certainly have no objection to it. All I should wish if it crosses my place is that they should pass it in such a manner that they will cut it into two by a straight line across the centre, instead of diagonally; for if they do that they will spoil my property

entirely. If they cut it straight through the centre, then of course the land on either side will be available for building purposes, &c. ; and cutting it diagonally will alter in my opinion the price of the land materially. If you propose to cut it in that way and ask me what value I put upon the land, I would say I would not give it you for £5,000. If, however, you cut it by a straight line, then I will leave it entirely to the arbitrators or jury appointed, to fix their own price, and perhaps may do more.

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42. Then you only object to the deviation taking place without your consent. You wish to be sure first in what way the line will run before you withdraw your objection?—Yes.

43. And you consent to the line as now laid down in the plan?—That is to say, if I can alter it, I will do so ; but if I cannot, then I will agree to it. I cannot explain to the committee so clearly the importance of fixing the deviations, but if they were on the ground they would see at once what I mean. If the line cuts my property parallel to the road its value would not be depreciated, but if it cuts it diagonally it must be so. If it cuts parallel to the road there is a beautiful piece of land, the finest land you can get for cottages, on which six or seven might be built, with a beautiful elevation.

44. Mr. *de Wet*.] So that you would have the line of railroad run more parallel with the main road than it is proposed to carry it?—If I can get it done, I should of course wish it ; but if the engineer and company think the line ought to run otherwise, I will not object, so long as it does not cross my property diagonally.

45. Then I understand that you object to the line because you wish to see it distinctly fixed before you give your consent ; and another objection is that the engineer should not be allowed to enter on your premises and take material?—I should like to see where the line is to come. I do not care about the deviation if they wish it, but let them show exactly where the line will come.

46. Did not the engineer show you a suitable line?—He only pointed it out to me, but I wish to see it clearly marked down.

47. Then the line the engineer showed you when standing on your property does not correspond with the line laid down on the plan?—It does not.



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48. Still it is more favourable to you as it is on the plan than as the engineer showed you?—Yes; according to the plan it is better for me.

49. *Chairman*]. With reference to the line of deviation marked off by the dotted line, cannot improvements be suggested in it?—As the line now stands it is to my mind the best.

50. You have already objected to the power proposed to be given to these parties to dig wherever they think proper; you think there is no necessity to have that in the bill, that it can be made matter of private arrangement, that the company can get the Government land, and if they want any more, by an agreement with private individuals they can get what they want?—There are gentlemen present here who have told me that they are willing, if the company is short of any material to supply it at a moderate price; besides which, as I have pointed out, clause seventeen provides that the company can have access to all Government land where sufficient material can be got for the completion of the line. Therefore I beg that that clause which gives the company power to enter upon our property, to dig, excavate, and carry away whatever they like for the construction of the railway, may be entirely removed from the bill.

51. You have also stated, I believe, that the surveyor did not point out to you how access could be had to the lower part of your ground, at those spots where it is proposed to raise embankments?—No; no statement whatever was made to me.

52. These grounds are very valuable, I believe, containing vineyards and brickfields?—The line passes through the heart of my vines; and that is one of our objections. We say: the income of our places will be taken away. There is my brickfield for instance, that is a principal source of income; there is also my vineyard and my garden. Now the rail comes through the heart of my vines, and suppose the work commences in December or January, that is just the time that the grapes are ripe. If the engineer then enters my property with ten or twenty, or thirty or forty people, whoever they are that may be brought, navvies or any one else, my whole ground is open to them. They have a right of deviation, for I don't know where the line will be fixed; these men then while at work will keep on picking the bunches of grapes, which is very natural, and before the railroad is

finished my crops will be gone. I will have nothing to sell, and no bread to eat. Therefore I say it would be well to point out to us through what part of the ground the rail will come; and when the line is agreed upon, before you commence operations, fence that part in where there is access to grapes and other fruit. We don't care about fencing in the rest, but fence these portions in and so protect my property. I do not come to the company and offer my land for sale and ask them to buy it, but they force me to give a line for the railroad, and if they want to force me in that way, let them secure me in such a manner that my property will not be entirely destroyed.

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53. These then are your two grievances. You wish before any portions are commenced that the line should be definitely resolved upon and properly fenced in so as to prevent the workmen from getting at your fruit, &c. ?—Exactly ; I do not mean that that should be done throughout the whole line, but only where it passes through plantations; perhaps half a mile, or three quarters of a mile here and there. I don't see how such a request can be refused, and am surprised that no regard was paid to the matter in the bill.

54. Do you think that another line could be found for the railroad, not passing over such valuable property, either lower down towards the river, or on the other side,—a line that would accomplish the same object?—I think the cheapest line will be on the other side of the river.

55. Do you think that the compensation to be paid where the line now runs will be rather high?—Yes ; where the line runs now is the most valuable ground. If they were to keep very close to the bank of the river it would be almost a better line, a line that would be less expensive than the present one. But I am afraid that you will find more objections on the other side of the river than on this side. I will tell you why. Last year, after the prorogation of parliament I took a little walk with my neighbour Mr. Meyer in the Camp ground. We met our old friend the hon. Mr. Ebden, and as neighbours of course we had a little conversation. Of course the subject of our conversation immediately fell upon the railway bill not having been passed that session. I said that the company could find no fault when there were such clauses in the bill, but I told him that what surprised me was, why they did not take a cheaper line. He said “where will you find a cheaper

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line?" I said on the other side of the river, because look at the ground on the other side, the line will have only two or three places to pass there, and that would make a great difference. He said "then you mean to say the line must come through my garden?" I said of course. "I wish you good morning," he said, and walked off. Now that is with regard to a flower garden; but here is my bread, the income of my place at stake, what I must live upon.

56. You are aware there are thatched houses in the neighbourhood of the proposed line?—Yes; a reference to the plan will show that.

57. Do you think it necessary that a clause should be introduced, providing that the company should be compelled to take over peoples' houses at a valuation, where the owners wish it, apprehending danger from vicinity to the line, or at least that they should put on roofs which will not be so combustible?—Decidedly; if the line is brought close to a house and the proprietor wishes to keep it, I think the company ought at least to ensure the building. At some places again embankments will be made, and when these are erected before a house, or close to it, they will take away the view of the house altogether, and of course will diminish the value of the property most materially. Some people will not like to remain in their houses after such embankments are made before them; and in that case I would think it would not be more than fair that the company should buy the building, the price of which is so diminished, and its view thus obstructed. Perhaps such a case may not occur, but it may; I cannot point out where a case will occur, but I only mention it is a thing which ought to be provided for.

58. You stated that you think the company ought to insure,—but suppose they refuse to insure, do you not think an obligation should rest upon the company to put on less combustible roofs?—Yes; though some persons do not like to live under slate roofs, preferring thatch.

59. You think the danger of fire will be increased by the locomotive passing near these thatched houses?—Decidedly; with our south-east winds in summer great danger is to be apprehended, for we know what happened only two or three years ago. There is a great deal of dry grass all around. Could any body in the colony ever imagine that the whole of Rondebosch could be burnt down in a quarter of an hour? That happened three years ago, at places where no grass was

to be seen, too; notwithstanding that, the whole of Rondebosch was burnt down by a few sparks coming down from the mountain; one house set fire to another and the whole of Rondebosch was burnt down. So that I mean to say that if this line goes near these thatched houses, and proper precautions are not taken, this will happen again, and most decidedly it will be very dangerous.

60. So that there will always be a sense of insecurity in the minds of the parties residing in these houses, that they may be set on fire by sparks at any moment?—Decidedly; I have two small houses myself close to where the rail must run, and which will be very much in danger. Several others will also be endangered, Mr. Marais' building, Mr. Alwyn's and several others close by. Your own property, Mr. Fletcher's, and many besides.

61. Mr. *de Wet*.] Still you do not object on that score to the line running as now proposed?—No.

62. You only wish that should the proprietors so desire it the company should take over particular houses at a fair compensation?—Yes; I think it is not more than fair that such a provision should be introduced.

63. *Chairman*.] And you think the company should also give proper access to the different proprietors who otherwise would have difficulty in getting at their property on account of the embankment?—That must be done of course, but I think it is already provided for in the Act as far as I can see. The only thing I don't see provided for is, that where the road goes over an embankment it should have a proper slope on both sides; because we all know that at Mowbray, one has his garden, another his brick-field, another his mill, and all have heavy loads to bring over these embankments. If there is not a proper slope made for the embankment how can we cross? It would be most difficult for us. That point is not provided for but I think can easily be arranged. Take the case of Mr. Mostert for instance, who is the closest by. I think the line passes between his house and his mill. He has to cross from the one to the other with heavy loads, and how can he do so unless there is a nice slope made on both sides? If that is not done his passage will be entirely obstructed, so that he cannot get over.

64. Do you know whether sufficient capital has been subscribed to carry out the line, or is it a mere project?—I think it is a mere project.

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65. Do you think there ought to be a penalty if the parties do not carry out the line?—It is stated in the act that they shall be obliged to commence within three years after its passing, and that if these three years have elapsed and they have not commenced, the whole thing will be null and void.

66. But do you think that to prevent the inhabitants being continually under the power of the directors, a clause should be introduced compelling them to complete the undertaking or forfeit a certain sum?—I should say so, if they began it and did not complete it.

67. Are the nine parties whose names are attached to the petition first presented to the Council, parties residing alongside the line?—They are all parties directly interested, and not only directly interested, but I think that these parties, taken together, are worth as much as all the rest together. I put a question the other day to the chairman of the company about the deviation. I said, “I see there is to be a deviation, but I wish you to point out to me the proper place where the line is to be.” He said “That we cannot do, because we do not know where the line will come. The line may come through your property in a very low part, and perhaps after a fortnight or so the engineer may find that he has made a mistake and that he must come through the upper part, and then there must be a deviation accordingly.” I said “Do you mean to say that the engineer can work on my property for months and days and hours without my knowing that I will get proper compensation?” He said, “No such thing; the line must be complete first, and then the property must be valued, and then you will get compensation.” I said, “Well that is capital! So that you can just work in our gardens at a particular spot, and keep us for three years without knowing where the line is to be, while all our property is to be in the hands of the workmen; that is capital!” I was entirely at a loss. We must surrender our estates if that is the case.

68. Mr. *De Wet*. Your objections confine themselves to the 17th, 18th, and 19th clauses, I believe?—I have no objection to the 17th, I merely made the remark that it provides how the company can procure sufficient material from Government land. But it is principally to the 18th and 19th that we object; by which clauses the company have a right to come on our properties and dig, excavate, and carry away whatever they like.

69. You have said that you wish that under certain circumstances the company should purchase up certain houses of proprietors along the line ; but have you anything you can suggest by which these properties may be made more secure from danger ; have you any idea how you can prevent sparks from setting fire to houses ?—No ; that I cannot say.

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70. In the event that the line were to run much lower down, do you think it would be attended with more safety to have it there ?—It would also pass near properties in that direction, but less in number than where it is now proposed to run. I see an item in my notes which has not yet been alluded to. It was an objection made before the House of Assembly Committee, but nothing was done with regard to it. That is, the extent of land they ask in the bill for the construction of this railway. They want thirty feet for the line alone, and so much for drainage, so much for fencing, so much for excavations, and so forth. Of course we know perfectly well that where excavations have to be made they ought to have a certain slope, and therefore if they take the ground for excavation we have no objection. But we object to give more than thirty feet of land for the rail itself. We wish to point that out to the committee, and for this reason. I have been measuring the railway line towards Wellington, and I observe that the line is not itself more than four feet eight inches, not fully five feet, and the sleepers themselves are not more than nine so that an additional foot or two of ground besides the sleepers brings it to eleven ; and we measured exactly thirteen feet with the little embankment ; so that for one single line thirteen feet is taken on the Wellington rail. Now the demand is here for thirty feet, also for a single rail, and some more additional ground, without mentioning how much, for drainage, fencing and for stations. It is understood, of course, that for stations there must be land, and for such additional things we are quite willing to give land, and it shall be given, but we think that thirty feet of land is quite sufficient for the rail itself. Moreover, before I came to the committee I went to survey the double line of rail close to Cape Town, which, I am told, is further apart where I measured it than it is at a little distance on, but say it is the same ; and I found that for the double line not more than twenty-four feet altogether is required. Yet here we are willing to give up thirty feet. The reason we wish to have the company bound to thirty feet is that our land is of

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much value. We wish to keep as much land as possible and yet encourage the railway. Therefore we will give what is necessary for the rail to make fences, drainage, &c., but what we are very much afraid of is that when excavations are made, they will just open up the ground here and there, wherever embankments are required, and leave the ground full of holes, and so our properties be spoilt. We wish to keep as much land as we can, and yet give as much to the company as is necessary.

71. Not, however, exceeding thirty feet?—Yes; including drainage, fences, &c., but where excavations are necessary of course they can take more if they have the proper slope made.

72. Mr. Stein.] Have you read the Act now before the Council?—Yes.

73. I find that at the fifty-third line of page three there are the following words: “Provided that the extent of land taken for the said railway shall not exceed the width of thirty feet for the formation line, and sufficient additional width required for the slopes, drainage, fencing and stations and approach roads thereto; provided that in doing so as little damage as possible shall be done to such lands as aforesaid.” Now does that not meet your objection, seeing that although they make provision for getting more, yet they must show that it absolutely necessary; otherwise they will not go upon the act, which says that as little damage as possible shall be done to such lands?—Certainly it mentions that; but as we find, as I have just mentioned, the double line of the Cape Town and Wellington Railway is only twenty-four feet in width, and that the bill provides for six feet additional, three feet on each side, we think thirty feet is quite sufficient for the formation line.

74. Is the committee to understand, then, that you think that under no circumstances more than thirty feet should be allowed for the formation line?—I believe that will be quite sufficient for the purpose. My reason for stating so is this. As our land there is valuable, we are afraid that when excavations are to be made, instead of carrying the earth away to the embankment they will just throw it on the top of the excavation. If you give them more ground than is really necessary for the rail, drainage, and fencing, they will go and do as they did on the trunk line, dig here and there for the purpose of making embankments. What we say is

that the contractor should take care not to destroy the properties alongside the rail by making these excavations improperly. We do not wish to sell our land; all we wish to do is to encourage the rail, and we are ready to do anything for the rail, but let it be done properly, and let everything that is wanted be clearly pointed out to us.

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75. I will read you another portion of the same clause :—  
“ And provided further that the proprietors of the said lands for materials so used and carried away shall be paid by the directors the just value by way of recompense for such lands or materials or for any damage which may be done by reason thereof ” Is it not reasonable to suppose that as the company, according to this act, will have to pay the full value for anything they may remove, they will be careful not to take more, and not to damage the property more, than they can possibly help ?—That is the question. They may perhaps find that removing materials from other places to the line will be attended with more expense to them than if they took a little land from the proprietors of a particular place, and so get what they want on the spot for the purpose of making embankments, and so on. As we all know, the whole world is in favor of railroads, and so are we; but we saw lately that one party in a dispute put £2,000 value on certain property, and the other party put on the value of 1s.; and we do not know what we can expect. We say, let us do everything to encourage the rail, but let us take care at the same time to save the property of neighbouring owners, where no necessity exists for the removal of material from their property.

76. You are aware that in the same clause, eighteen, three modes of payment are provided. The first is, an offer of payment from the company, which the land-holder is at liberty to refuse; the next a reference to arbitration, which the land-holder is equally at liberty to refuse; and thirdly, the appointment of a special jury. And it says, at the 60th line, page 4, that this jury shall be entitled “ either before or after the hearing of the parties, to inspect the property sought to be taken, and in the consideration of their verdict shall have regard not only to the value of the property sought to be purchased or taken as aforesaid, but also to the damage, if any, to be sustained by the owner in consequence thereof.” Will not that have the effect of giving in the most ample way full compensation for what-



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ever is taken, irrespective altogether of any advantage the proprietors might derive by having this railway established? —We will rather have our land than the money. I cannot exactly say that no money will buy my property, but I am attached to my property and wish it kept as it is if possible. Therefore I will not sell it, but to encourage the rail I will give as much as is actually necessary. This clause respecting payment we are satisfied with. The different modes provided there for payment are ample, but we wish to keep our property as much as possible and still give the rail what is actually requisite.

77. But I suppose you will allow, as you show a great desire to accommodate the company by letting the railway pass through your land, that public good should preponderate over private feelings and interest. You say you wish to be allowed to keep your land because you love your land; but still you love your neighbour also, do you not, and for the sake of your neighbour you would, in consideration of proper payment, give up that love for your land rather than that your neighbours all about you and the public in general should be deprived of the benefit of the line?—We are willing to do what is fair.

78. But your interest you think, then, is not sufficiently protected by this 18th clause providing for full compensation for any damage, or anything that may be taken away?—I think not; and then again we have strong objections to the clause which provides that the company shall have power to enter upon all our properties. It makes no difference where or how, but gives them power to enter on all our properties to dig, excavate, and carry away whatever they like.

79. Paying you full compensation; is not that provided? —But how would you like, Mr. Stein, if they told you that by giving you compensation they could come on to your property and take away whatever they like? Provision is made in the bill giving them this power on government land. Well, if they come short of material they can go to the government land. Besides which, the neighbours are willing to sell at a moderate sum. We do not wish you to come on our properties and remove whatever you like. We contend that there is full provision made in the bill by which the company can get what they want in other places. Therefore if this clause is agreed to then I say if ever anything in this colony could be called despotic, it is this clause.

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80. I suppose you will allow that it is not likely that any company formed for the purpose of carrying out a public undertaking of this kind could, under the influence of any spite or ill-will against particular men, spend a large sum of money in taking ground from any proprietor against his will, when they can get ground from his neighbour, or from some one else, at a much more reasonable sum. Do you not think that the common sense view to take of this act is that no company when they can get a thing for nothing, or less than a certain sum, would be so foolish as to go and pay a sovereign, for example, for what they can get for a shilling?—Notwithstanding that, it does not take away the wilfulness and despotism of this act. They may have a fall out with one of the proprietors perhaps. A proprietor may differ in opinion with the company in one way or another, and then they have it in their hands to do what they like with his property; of course for payment, but payment will not always satisfy a man.

81. You made a remark as to the necessity of having proper approaches made to embankments. Do you not think the nineteenth clause affords you sufficient protection?—With the exception of level crossings everything is well provided for, except, also, a good strong fence along the line of railways where it passes through plantations, &c.

82. Then the nineteenth clause of the bill is agreeable to you, with that exception?—Yes.

83. *Chairman.*] And with the exception of proper slopes to the embankment?—That I have already mentioned.

84. *Mr. Stein.*] But does not the nineteenth clause protect you sufficiently in that respect?—No.

85. It provides that there shall be “no interruption,”—that is to say that means will be provided to enable you to get over the embankment to your property?—If that were more distinctly put down it would be better, and we would then understand it perfectly. Nothing of this kind should be left doubtful in the bill; and it is such a trifling matter as far as the company is concerned, that I think there ought to be no dispute about it.

86. A good deal has been said about the deviation; but are you not aware that the reason given for so much deviation is that it is necessary first to ascertain what the different landholders through whose property the proposed line will run, intend asking for their land, and then that the engineer

Mr. Eksteen. should afterwards have the power to select a cheaper line if he can find it?—I do not think that is a desirable power to give. I think that the views of both the engineer and the proprietor can be met by a less deviation. If all parties present are asked whether they suppose the line now laid out is not the best under the circumstances, they will answer with a unanimous “yes;” but we do not consider a deviation of three hundred feet on either side at all necessary, and if a proposal can be made for a smaller one, I do not think those who are now opposed will have any objection. At least for my own part I can say that I will not. Instead of taking three hundred feet on each side take, say, fifty or sixty feet.

87. Is it not advisable to give the company as much latitude as you can in these matters?—I think what I have mentioned will be sufficient.

88. You spoke just now of “all Rondebosch” having been burnt down some time ago; of course that was only figuratively, not more than four or five houses having really been destroyed?—Double that number, at least, were burnt, and that, you may say, in the month of April when all our south-easters were over. The committee knows how soon fire is communicated from one thatched roof house to another, for on the occasion of that fire to which I have just referred it is said that a spark from Mr. Louw’s house, I think it was, set fire to Mrs. Home’s house more than a mile off.

89. Still you only spoke figuratively when you spoke of “all Rondebosch” having been burnt down?—I meant that part in which the fire occurred.

90. Were these objections you have now urged also brought before the select committee of the Assembly?—Not all of them, but the principal ones were, namely, our objection to allow the company to enter all properties and dig, excavate, and carry away what they please. That was a very strong objection we urged before the Assembly committee; besides which, we also required that fences should be put up where the line passes through plantations, &c., we objected also to the means of compensation, payment, and to the time fixed for the commencement and finishing of the line.

91. Were not considerable amendments made in the bill to meet the objections you then urged. Were not, in fact, the clauses I have partially read inserted on purpose to meet those objections?—They met our objections partly. All

these slight things were altered, but what was of material importance was not altered.

92. Mr. *de Roubaix*.] I think you said in the course of examination that this Wynberg Railway Bill was before the Assembly last session, but did not pass?—Yes.

93. Was a plan produced in the Assembly on that occasion?—Yes, this very plan.

94. And you then objected to it also?—Decidedly; not in regard to all the points on which we have now objected, because railways are new to the colony, and we did not know much about them at that time. We wished to have this railway and therefore we trusted the whole thing to the company at first; but when the bill was introduced we looked into it, and I then saw that the bill contained the road-rate clause, namely that the value of the ground proposed to be taken from any landholder should be referred to arbitration, and then, if such property derived any benefit from the railway, that was to be deducted. I thought “well that’s capital, what shall we get for our land if they go on in that way.” We then began to object and drew up petitions to Parliament stating our objections. It was then already late in the session and the enquiry took so much time in one way and another that the bill did not pass.

95. In fact then, you objected to the bill last session also?—Yes; I went to object with my attorney and lawyer.

96. The objections you then urged were fully discussed, I suppose?—Yes.

97. Mr. *de Wet*.] Did you stand alone at that time, or were there others who made common cause with you?—With the exception of Mr. Dreyer, we were all the very same parties. We had Mr. Steedman with us, but he withdrew, and Mr. Dreyer came into his place.

98. Then you always had the same object in view from the commencement?—Yes.

99. Mr. *de Roubaix*.] Why were not all the objections you have now urged also brought before the Assembly Committee?—We get more wisdom every day in these matters, and as they did not fulfil our wishes in the Assembly Committee, we thought as we had to come to the Council we might as well add a few objections we had overlooked.

100. Mr. *Stein*.] You mentioned that some time ago you made a little pencil mark on the plan, where you thought a station ought to be. If you got that station there, would you

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waive your other objections?—By no means. These other gentlemen have supported me and I will support them to the last moment, whether you give me a station or whether I lose my whole property, because I work on a principle.

101. *Chairman.*] Do you think the stations properly selected or could you suggest any improvement?—I could ; and on this point I like to explain things fully so that everybody can understand me. People may think self-interest is a grand thing, and so it is; but it may be thought by some that I do all this work with a view to my own interest alone and not that of my neighbours and friends. I hope, however, that is not the case. When I saw this plan for the first time, I immediately made enquiry as to where the stations were to be, and when I saw that my property was not taken any notice of, although I am the greatest sufferer of the lot, I thought the company could not look upon me with a good eye. They want my property but Eksteen must look out for himself;—that will never do. I commenced looking where the stations were placed and I found that the first was close to the house of the treasurer of the company. I said well, perhaps it is necessary to have a station there, and so I looked round but could only see a few whom it would benefit ; well, I said, it is a wonder they are going to have a station there; but never mind, I have no objection to it. I then measured off the proper distance from there and found that the next station came to Mowbray. That I thought was a very proper place, because it is in the midst of all these buildings and near a number of cross roads from the flats and other places. Then I took my rule again to see where the third station should be, and I found that it just came to the corner of my property, where a beautiful road is opened leading up the mountain, and going to nearly all the properties there, and also another road leading to the greater part of the Camp Ground. Still they had given me nothing. I said, that is very hard indeed. I have got a beautiful piece of land, and have a good prospect of laying out a village on it. I have three plans now in my house, according to which I wished to divide it into building lots for sale. Well, I said to myself, this railroad passes over my property, and destroys all my vines, and still they have not even given me a station. What can I do with my land after the rail is opened. I will be obliged to sell it, but who will buy ; whereas if I had got a station there I could have sold my property well, and that would have been

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some recompense. I thought at the time of talking about it, but afterwards thought, never mind; and I then found that instead of placing the station where it ought to be on my property, they placed it further on, on Mr. Stenhouse's land.

102. Mr. *Stein*.] He is not materially interested in the line, is he?—He has property round about there and, therefore, will benefit to some extent. I examined the plan farther and found that another station was given to Mr. Letterstedt. However I had nothing to say against that, because that gentleman has laid out a good deal of capital on his place and perhaps is also ready to give the ground for nothing. Therefore, thought I, it is of no material consequence; although I do not think they have placed this station either at the proper place. I consider it ought to have been placed at the cross-road to Protea, where it would also have served for the greater part of Claremont and for the people on the flats. These, then, were my suggestions,—that it was only fair and right that I should have a station, and that the next station should be removed to Rouwkoop, near the Roman Catholic Church. When I made this examination of the stations, it was just about the time the valuers went round in the district, and a reference to the value of the different properties in the neighborhood convinced me that I was quite right in my idea of where the stations ought to be, and that to place those particular ones I have mentioned where they are now is equally against the interests of the proprietors and of the company.

103. Mr. *de Wet*.] You think that the great right of deviation claimed would, if granted, depreciate considerably the value of the land?—Most certainly.

104. Mr. *Stein*.] Are you aware that there is no station at Mr. Reid's, but only a stopping place?—I believe so.

105. And that he was not at all consulted in the matter?—That I know nothing about.

106. Do you not think that the central position of the station at Letterstedt's bridge renders it very desirable to have that station there?—Rouwkoop would do just as well, and would, I think, be accessible to many more landed proprietors.

107. The company for its own sake, I suppose, will fix the stations where there is the greatest traffic?—I should suppose so.

*Tuesday, 30th July, 1861.*

PRESENT :

Mr. WICHT (Chairman).

Mr. Stein,  
Mr. de Wet,

Mr. van Breda,  
Mr. de Roubaix.

Mr. *John Reid* examined.

Mr. *John Reid*. 108. *Chairman.*] I believe you are treasurer to the  
30th July, 1861. Wynberg Railway Company?—I am.

109. The bill now before the Council was introduced into the Assembly and certain amendments were made there, were there not?—Yes.

110. In the preamble of the bill I see allusion is made to certain documents not specifically named, but which I suppose are the plans now before the committee?—The plans and sections now before the committee are those referred to in the preamble.

111. It is customary to have such plans referred to in a preamble designated by letter A or letter B to point out clearly what plans are alluded to, but this has not been done?—I should not have thought that was necessary.

112. Has any definite line been pointed out to the proprietors of land in the neighbourhood, by stakes or anything else driven into the ground?—I am not aware. I was not present when the plan was made.

113. You are also a landed proprietor on the line?—I am.

114. Perhaps you are aware, then, of the objections urged by the parties who petitioned the Council against certain clauses in the bill?—I am aware that objections have been urged, but I was not present when these parties were examined.

115. Is there anything specially that you wish to communicate to this committee?—Nothing further than that I think it would be of great importance to the public if this railway were made. My impression is that unless it is made, landed proprietors in that direction will suffer very materially. For instance, the owners of property in the flats will lose tenants

for their houses, as people will go and live at Stellenbosch when the other railway is opened; and then the value of property in the flats will depreciate very materially.

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116. With regard to the stations, do you think that they have been well chosen?—I had nothing to do with the choice of stations; I have no doubt that was attended to by those whose business it was.

117. Do you think there will be sufficient capital forthcoming to complete the line?—In my opinion the provisions that were made in the Assembly may injure the undertaking.

118. Why do you think so?—Because according to the alteration made in the Assembly, if there is any dispute it is referred to arbitration; the arbitrators are to decide what is the value of the land that is taken, and what is the damage that may be done to the proprietors of the land; but there are no provisions by which they are authorised to take into account the benefit the proprietor of the land may derive from the establishment of the railway.

119. The benefit, I suppose, of being near a station; but suppose the rail merely passes through the land, will that benefit the proprietor of that land?—It depends upon the situation. I do not think the railway will benefit me, for instance; but I think it will benefit those who are at a greater distance from the Wellington railway. But it will benefit the proprietors generally, independent of being near the railway.

120. It has been stated that it is desirable to have a clause introduced by which a penalty should be fixed unless the line is completed within the given time?—Of course, if you cannot get people to undertake it, the railway cannot be carried on; but I am not aware that any such provision was ever made in any such bill.

121. In England, they generally forfeit a portion of the capital unless the railroad is proceeded with within a certain time?—I have no doubt that every endeavour will be made by those interested to get the railway constructed.

122. Are there parties abroad who are prepared to tender for this railway?—I am aware that one gentleman has taken an interest in it, and from what he said, I think it is likely that he may undertake it if he sees it is likely to answer.

123. Could the line be altered so as to make it less objectionable, and not pass through such valuable property?—I am not an engineer and therefore cannot tell; but from the



Mr. *John Reid*, attention paid to it, I should imagine the line now laid out is considered the best.

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124. Mr. *de Wet*.] Do you not think, Mr. Reid, it would have a detrimental effect upon property lying contiguous to the projected line if the proprietors were kept in suspense for three years, whether the undertaking would be carried into effect or not?—I do not think it can make their position worse than it is at present, with no railway at all.

125. Suppose now anybody wished to become the proprietor of a piece of property lying contiguous to the projected line, will it not influence his mind unfavourably, when he finds that he is to remain for three years under an uncertainty whether the line is to run through that property or not?—The advantage will be great, I think, if the line is carried out, although if there is a doubt with regard to it he will not have that advantage. I do not see how it is possible, however, that he would be in a worse position than he will be in if there is no railway at all.

126. Can you account for our receiving this bill, which is a private bill, at so late a stage of the session, when according to our rules it cannot be introduced into the Council?—It was introduced into the Assembly, at the very commencement of the session, and I suppose the delay was partly owing to its having to be submitted to a select committee and time taken there to consider it.

127. And the subject was fully discussed there?—I am aware discussion took place, but I happened to be ill on one occasion when witnesses were called, and could not attend.

128. Mr. *van Breda*.] What advantage will a landed proprietor derive from the rail crossing his property while he is far from a station?—He may not derive advantage from its crossing his property, but on account of his property being contiguous to the railway. It will promote the interest of land owners generally. Of course the mere crossing of the rail may rather injure some proprietors than benefit them. With regard to my own land, for instance, it goes to the middle of it. I had much rather it did not; but I am bound to look to the public interest as well as to my own private benefit.

129. Mr. *de Wet*.] You were not present yesterday when Mr. Eksteen was examined?—I was not.

130. Amongst the objections raised by him was one, that he line should be properly fenced before further operations

are commenced, in order to prevent the adjoining proprietors being annoyed by people, working on their land, committing depredations. What is your opinion on that point?—I have had no experience in the matter; but I was speaking to Mr. Hare, of Groenfontein on the Paarl road, this morning, and he tells me that navvies have been occupied in the neighbourhood of his place for many months, and that he has never suffered the least injury. He says it depends a good deal on the way in which these navvies are treated. If they are not treated ill they will not treat people ill either, and he has never had the least cause of complaint.

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131. But are you not aware that they often take the law into their own hands, and administer justice according to their own fashion?—I believe if you plague them they will plague you.

132. Mr. *van Breda*.] Are you aware what distance the nearest railway station is from Mr. Hare's vineyard and garden?—I believe it is on a portion of his ground. I do not now how far it is from his vineyard.

133. Do you know whether it is not the fact that the road going to the Paarl passes between Bennetsdorp station and Mr. Hare's property?—Mr. Hare's property cannot be at a very great distance off; if the navvies are inclined to steal, it is near enough for them to go.

134. But can you compare the railroad which passes through Mr. Hare's ground with this which will pass through vineyards and orchards of great value?—If you allude to any particular land owner, it will not take long for the line to be made through his land.

135. But the company is entitled to three years, is it not?—It is; but it will not take three years to make one particular part of the line.

136. Mr. *de Roubaix*.] Mr. Eksteen is a very extensive landed proprietor. Do you think that he will ultimately suffer, if the line of railway goes as it is proposed to carry it?—My impression is that Mr. Eksteen will benefit more than almost any other individual.

137. You think the injury will be more applicable to small proprietors?—There may be instances of injury, but I do not think many persons could be injured. I think the railway will be a great benefit to land owners as well as others.

138. Then you think it will be a benefit to Mr. Eksteen?—A great benefit, I think.

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139. Will it not cut up his land?—I dare say it will cut up his land, but whether in a valuable part or not I do not know; I am told not.

140. Mr. *de Wet*.] Will the benefit to be derived by Mr. Eksteen depend entirely upon the spot where the stations will be placed?—Of course; if there is a station on his ground it will be of much greater benefit to him than if it were at a distance.

141. May it in other respects not be detrimental to some parties to have this line running through their properties?—The benefit is so much greater than the inconvenience that it is scarce worth while considering that inconvenience.

142. There is for instance now the Wellington railway. If the station is placed at such a distance from the village as is proposed, the proprietors of erven in that village will suffer injury?—The benefit in that case will not be so great, but I do not think they will be injured. I think the railway will promote the interests of all the inhabitants, even those at a distance from the stations.

143. Mr. *de Roubaix*.] Therefore taking a general view of the case, you think it will be a benefit if the Wynberg railway is completed?—Yes.

144. There will be a rise in the value of land I suppose?—Yes.

145. *Chairman*.] But we have it in evidence before us that an embankment is to be raised on Mr. Eksteen's property, which will therefore be divided. Do not you think his property will be depreciated in value?—I do not know the nature of the land sufficiently, to be aware whether there will be any cutting there or not.

146. Mr. *van Breda*.] Do you think that land owners will benefit as much if the rail runs through their land as if it did not, but passed in another direction?—I daresay if the line were lower down and did not go through Mr. Eksteen's property, he would benefit to a much greater extent than by its merely running through his land.

147. Mr. *Stein*.] There will be a station close by, will there not?—Then I think it very short-sighted policy on the part of Mr. Eksteen to object.

148. Mr. *van Breda*.] You think, however, that it would be a greater benefit to Mr. Eksteen, if the line were taken in another direction and his property were not touched?—Yes; at least, it is difficult to tell. If it went through his

house, it would be injurious; but I believe it is to be taken through a portion of his land which is not very valuable.

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149. His vineyard, orchards, and other cultivated land, and his brick-field will be cut quite into two?—That is one thing that will enable him to derive very great benefit. He will be able to convey his bricks to a distance at a much less expense than he is able now, for his bricks are carried in this direction, even to Cape Town, and with the railway he will be able to convey them much more readily and with less expense.

150. Mr. *de Roubaix*.] Have you looked over the petition signed by the nine landed proprietors, and do you think the allegations contained in it are well founded?—I do not; and besides there is no intelligible prayer. They do not point out what they want, but ask the Council to do it for them.

151. Mr. *Stein*.] As you are the professional man connected with the promoters of this bill, do you consider that if the bill be more hampered than it is now with clauses in favour of land owners along the line, the gentleman you have alluded to will be likely to take it up?—I think it is more than doubtful.

152. Do you think the inhabitants on the line between Wynberg and Cape Town will subscribe for shares if more clogs are put into the bill than exist at present?—I think it very unlikely that they will; because it will be impossible to know how much they will have to pay. They may have to pay so much that it will not be desirable for them to undertake it.

153. *Chairman*.] You say the allegations in the petition are not well founded. Do you not think the parties are justified in the assertion they make, that it would be injurious to them if the company were allowed to enter upon all lands and dig, excavate, and carry away whatever they like?—I don't think they will go to the expense of taking valuable adjoining land for material when they can get material cheaper in the neighbourhood.

154. Why was such a clause introduced then; does it not seem of a vexatious nature?—You cannot provide for everything in a bill; it would taken a very voluminous bill to guard against every contingency.

155. There is a clause in the bill enabling the company to take from government land not far off; will that not be

Mr. <sup>John</sup> Reid. sufficient without the tremendous power of allowing the company to go wherever they like for material?—I do not know whether there is sufficient material on government ground. All that, I think, may be left to the judgment of the directors. They will not pay more than they can help for what they can get cheaper at another place.

156. You think that the property of these parties should be abandoned to the mercy of one or two individuals, the contractor and the superintendent?—I think it may very safely be left to them.

157. Mr. *de Wet*.] Suppose the square area represented by this piece of paper forms Mr. Eksteen's land, and this other, that of his next neighbour. Suppose the railroad were to run across, and that the engineers were to consider it necessary in order to make the line run there, to raise an embankment of such immense size (I merely take it as a case), by which Mr. Eksteen would be totally prevented from getting access to the other part of his property which is now cut in two, do you not think it is necessary in justice to all parties that the bill should at least contain a provision, by which the company should be bound to form embankments in such a manner as will allow Mr. Eksteen free access to the other part of his property?—I do not know whether that objection will apply to Mr. Eksteen, or any other individual on the line. I do not know whether there will be such an embankment thrown up. I should think the first point would be to ascertain whether it is likely to occur.

158. But in the event that proved to be the case?—Then I don't think any inconvenience would result to Mr. Eksteen that would materially interfere with his interests.

159. *Chairman*.] Suppose an embankment were made close to his house, would it not depreciate the value of his house?—If you point out any place where it will be so, then I shall be able to answer the question.

160. Mr. *van Breda*.] You are acquainted, Mr. Reid, with the signatures of the petitioners against the bill?—Yes; I know the names of all the gentlemen.

161. They are all landed proprietors I believe, and are dependent on their agricultural pursuits for their income?—Not all; I think Mr. Marais is not, to the best of my knowledge.

162. But are not the others, Messrs. Kotze, Mostert, Eksteen, &c., people who live entirely from the cultivation

of the soil?—I do not think they will be injured at all. Mr. Marais told me that the rail would run through a small piece of his land and might injure it; but in regard to the others I do not think it could injure them. I should rather think that my neighbour, Mr. Wrensch, would derive great benefit; he is a miller and would be better able to take his produce to town; and Mr. Fell I do not think would be injured by it, nor any of the others indeed.

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163. Mr. Kotze has a very large piece of land there, I believe?—The rail runs near the boundary of his land, and I think it will benefit him very much, by making his land generally much more valuable than it is now.

164. But will not the line cut off part of his property, and render that of little value which is situated between other property and the rail?—That depends on circumstances which I am not acquainted with; but I should say that it will make his land much more valuable, generally.

165. Mr. de Roubaix.] How then do you account for the opposition of all these parties, if they are all to be benefited?—I do not know. Mr. Fell told me that he had misunderstood the matter, and now that he understood it, is not against the rail.

166. So that you think it may be misapprehension?—It may be altogether so.

167. *Chairman.*] The line I believe runs between Mr. Mostert's house and his mill. If that is the case will it not depreciate the value of his property?—I do not know whether it is the case.

Mr. Thomas Watson, examined.

168. *Chairman.*] You are Secretary of the projected Railway Company?—Hon. Secretary to the Provisional Committee.

Mr. T. Watson.

169. The plan now before the committee is the one made by the Engineer to the Company?—It is.

170. You suggested a line, I believe, not going exactly in the direction of the line laid down on the plan, but a little lower down?—The only line that I recollect having suggested was one marked out by myself in pencil on a general plan of the country. I made a sketch from the Blockhouse of the country down below, and then marked out that line. Subsequently I was favored by Mr. Pickering with the loan

Mr. T. Watson. of a plan of the country between Cape Town and Wynberg, on which I marked out what I thought the best line for the accomodation of the public, as well as for securing a great quantity of traffic.

171. That was a line running below Mr. Fletcher's?—Yes.

172. And that was exhibited at a meeting of shareholders as far as I remember?—The plan was exhibited at several meetings, with that sketched line upon it.

173. May not several persons have been induced by the exhibition of that plan to subscribe, under the impression that the railway would be carried out more or less in that direction?—It was never understood that that would be the line. It was merely a line proposed by myself.

174. What is your opinion, would that line not be preferable to the one now proposed?—I think the line now proposed is the better one, after hearing the matter explained by the engineer.

175. The expense of purchasing up the property along the line lower down towards the river would not be so great as with regard to the present line, would it?—I do not think there would be much difference; because in following out the line I originally sketched out, below Fletcher's, you would run within twenty yards of Mr. Steedman's house and completely destroy his property.

176. In the present line do you not go quite close to the Hermitage property?—The line passes between it and the main road.

177. Close to the house?—I believe the object in going through there is to get material for levelling up the line.

178. But you cut off all connection with the lower part of the estate unless proper provision be made?—Such provision is made in the bill, which states that all proper crossings shall be made.

179. Will not the cuttings and embankments depreciate the value of the property on which they are made?—I think there is not the slightest doubt in the world that some property will be depreciated in value, and that is why the bill provides that the parties so sustaining damage should be compensated for it.

180. Mr. Eksteen objects to the embankment, proposed to be raised on his property, being constructed, without proper provision being made for crossings &c., and says, also, that the value of his property will be depreciated if the

proposed power of deviation be granted. Is there any necessity for deviation from the present line?—I am not aware of there being any necessity.

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181. Then you do not think it necessary to give this power of deviation?—It is necessary to have the right of deviation, but whether deviation will be necessary, can only be ascertained when the line is being made.

182. Why cannot it be ascertained before?—It is usual in all railway bills to have the right of deviation allowed, because it may be found afterwards that even a proprietor may request a deviation, and then the bill, if passed as it at present stands, will allow of some such arrangement being made between the proprietor and the company.

183. But this is a short line and there are no engineering difficulties of any consequence;—do you think, then, it is necessary that these extensive powers should be conceded to the company?—The power asked for is not more than what is usually allowed. I was told by an engineer yesterday, that three hundred feet on each side was even too little; that there ought to be a larger right; and he also suggested that the bill might be improved by stating that the line of deviation might be still further extended, with the consent of the proprietor; that the company should have the right of going to a certain extent without his consent, and that, the company and proprietor consenting, further deviation might be allowed.

184. What do you want with the deviation?—For facility in making the line, and lessening expense, which it may be afterwards found can be avoided.

185. But I understand that the present line is considered the best?—In my opinion the line now laid down is the best that can be selected for the purpose; but when the engineer sets to work it may be found that there is a better line, and then the right of deviation will be exercised.

186. But the parties do not want this servitude on their property, and are against being kept in a state of suspense, not knowing where the directors may deviate to. Is it not better therefore to strike the clause out, and to make it matter of private arrangement?—I think it would be putting a great clog upon the company to bind them down to one particular line in the first instance. The company very naturally will want to get the cheapest line, and to save expense; and the proprietor, I will take Mr. Eksteen, for example, may afterwards say, "If you consent to alter the



Mr. T. Watson, line and deviate to the lower part of my ground I shall then  
 30th July, only take half the amount I now ask you, for coming the  
 1861, other way."

187. But will proprietors not find it difficult to sell their property, if so inclined, with this right hanging over the head of the owner, that the contractor can go wherever he likes?—I don't think they will.

188. The railway will not affect any of your property, will it?—I think some of my building lots will be taken by the station.

189. But you are on the upper side of the road?—Yes.

190. And therefore will receive benefit without receiving injury?—I don't think I will get much benefit.

191. How would you like to have a railroad made over your property, and an embankment made close to your house?—I would not have the slightest objection to its going through my property, if its passing through is necessary to the completion of the line.

192. Mr. *van Breda*.] Have you any ground under cultivation?—No; the ground the line will pass over is not under cultivation.

193. *Chairman*.] The parties who signed the petition presented to the Council the other day in favour of the bill reside on the upper part of the road, do they not, and will not be injured by the line passing as it is proposed to carry it, but on the contrary will be benefitted?—I am not aware who the petitioners are. I did not even sign the petition.

194. So that you have no idea of the amount of property represented by the petitioners?—I have not looked over the names to see; but in glancing my eye over it now, I find Mr. Steedman, who is a landed proprietor there, has signed in favour of the bill. The rail cuts right through the middle of his property.

195. But the majority I suppose live on the other side of the road?—I also see the name of Mr. Logie, who is a landed proprietor, and through some of his property the line will run.

196. Mr. *de Roubaix*.] Mr. Eksteen, and those other parties who objected were never consulted, were they, in regard to the line of railway now laid down?—That was left entirely to the engineer.

197. But he never had any communication with Mr. Eksteen or these other parties, nor had the company, with

reference to the proposed line?—I am not aware. I believe Mr. Hart called upon Mr. Eksteen and consulted him on some matters, but I do not know the nature of the communication then made to him.

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198. Then nothing passed between these parties and the company?—As far as I am aware, Mr. Eksteen has never exactly objected to the line as laid down. On the contrary, I believe he admits that that line is the best that can be selected; but he objected in the first instance to the manner in which proprietors of land will be compensated. That point was fully discussed before the select committee of the Assembly, and the arbitration clause in the bill was there introduced; after which I was under the impression that Mr. Eksteen withdrew his opposition.

199. You do not think then that he has just cause of complaint?—I think not. I think his estate will be very much benefitted by the line as laid down in the plan.

200. How?—By being brought nearer to a market.

201. Mr. *van Breda*.] But you propose to break up his property. How can he continue working then, in the same manner that he is working now?—My idea is that every property has its value, and that if Mr. Eksteen, or anybody else, can show in any way that his property will receive injury, the amount of that injury will be compensated for under the arbitration clause. There are three modes of arbitration provided for, and if the proprietor fails to get redress from the first two modes, he has the last always open to him, according to which his claim must be brought before a regular court, as it were, and tried by a jury. He will then get full compensation in the event of any damage having been done; if his grapes are taken away, or fruit trees destroyed, all these matters may be brought before the arbitrators.

202. Mr. *de Roubaix*.] Then more latitude is given to landed proprietors in this bill than in the case of the Wellington Railway?—Decidedly; every protection is afforded.

203. Do I understand you that in agreeing upon the terms of arbitration, any depredation committed by the work people will also be assessed by that jury?—Certainly; the party injured will be heard by counsel, if necessary, and can bring forward witnesses to show the amount of damage that has taken place.

204. Mr. *de Wet*.] That is, the damage sustained by his property; but will that include depredations committed by

Mr. *T. Watson*. the people working on it?—The proprietor will no doubt have a clear claim on the company.  
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205. To your knowledge, have the proprietors of the lands contiguous to the line ever been convened in meeting and the plan laid before them, in order to ascertain whether they have any objection?—If you refer to the proprietors who signed the petition first presented to the Council, I can only say that some of those who are now offering the greatest opposition were the very first men who came forward to support the undertaking. They attended several meetings, and put down their names as subscribers; though I am sorry to say that they did not follow it up by payment, but afterwards came forward and opposed the railway.

206. After the engineer had resolved on the line as laid down in the plan, was any meeting convened for the purpose of taking that plan into consideration?—No meeting was convened for that special purpose.

207. And if it had taken place you would have been aware of it, because you were Secretary?—If a meeting had been publicly held. But these objectors may have held a meeting amongst themselves. Perhaps you will allow me to mention that to provide properly in the matter of objections, it was thought desirable by the promoters of this undertaking to advertise in the public papers, naming, as far as they could ascertain them, the proprietors of land along the whole line, giving them notice that a bill would be introduced, and an incorporating act applied for, according to the usual English practice, and that then those who did not object after the issue of that notice would be taken as having consented.

208. Did you insert in that advertisement where the plan could be inspected by those proprietors?—Yes, we notified that the plan was lodged with the clerk of the House of Assembly, for inspection.

209. Was that before or after the bill had been introduced?—Before its introduction; six weeks before the session commenced, we publicly named the proprietors through whose land the intended line would run, and stated that the plan was open for inspection, at the committee room at the House of Assembly, in charge of the clerk.

210. Mr. *de Roubaix*.] Then the objections were to be sent to the Assembly, not to the company?—Yes.

211. Mr. *de Wet*.] What will be the capital required for carrying this plan into execution?—I can only speak as to the estimate of the engineer, which is £50,000, independent of rolling-stock and compensation for land.

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212. And that capital, I suppose, is subscribed for?—The necessary number of shares has been subscribed for, though, of course, the capital has not yet been paid up.

213. The shares are of the value of?—£10 each. I may as well state that there is nothing binding any party who has taken shares to take them, but he is bound to pay a deposit of two shillings per share.

214. Beyond that he incurs no further liability?—Not at present. He is not legally liable because there is no Act

215. Have you already contracted for making the railroad?—No.

216. Is it the intention of the company to throw the matter open to competition?—Nothing has yet been decided on. It will depend altogether on the kind of bill that is carried.

217. So that the present subscribers have entered into no definite engagement to take shares?—No company can be organized until the bill for its incorporation has passed into law.

218. You have heard the objection raised by Mr. Eksteen that an embankment may be thrown up on his property of such an immense size as to prevent his getting access to his land on the other side. Do you not think it is but fair that provision should be made in the bill for such an emergency?—There is a provision in the bill already which fully provides that all necessary crossings shall be made, by which the proprietor of land through which the railway runs can have full access from one part of his property to another. There is a special provision to that effect.

219. You have stated that according to an opinion given you by an engineer, it may so happen that the deviation that will be required will be greater than what is laid down in the plan?—It may be found convenient hereafter to have a greater right of deviation.

220. And if that were required you could enter into an agreement with the landed proprietor to that effect?—Yes.

221. But does that not hold good with respect to the present deviation also. Cannot the company now rest satisfied with the line as marked out in the plan, and a deviation of, say, thirty or forty feet on each side, leaving it open to the

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company to enter into an agreement hereafter for any more they may require?—Without any legal knowledge of the question, I should think that any private agreement made with proprietors outside the line of deviation could not hold good under provisions of the act. You might make a private arrangement of that kind, but I doubt whether the provisions of the act would extend to it.

222. Is there any absolute necessity for laying down that there should be a deviation to the extent of three hundred feet on each side?—I do not know that there is any actual necessity, but it is a provision, as I have said, usual in railway bills. Another party will have to be consulted before the railway is finished, namely the contractor. If the contractor is bound down to a specific line he may hesitate undertaking the work when he finds no deviation is allowed. Otherwise if he have the power of deviating between two certain points, he may save expense to himself by the adoption of any line, within that limit, which he may find the most easily constructed.

223. Do you not think it will have a prejudicial influence on the value of land in the vicinity of the railway, if for three years the proprietor is kept in suspense, what part his land will be cut up within the line of deviation?—If a favourable bill is passed, I think there is no chance of the landed proprietor being kept for three years in suspense, because then we would soon be able, no doubt, to get sufficient capital to make the line. If, however, the bill is clogged with all kinds of restrictions and difficulties, there is great doubt whether anybody will take up the making of the line at all; so it will depend entirely on the nature of the bill as passed whether it will soon come into operation or not.

224. But does not the bill itself suppose that an eventuality may take place which will require a term of three years to elapse before operations commence?—That term is allowed for the purpose of making negotiations. If a difficult bill is passed it may take two or three years before a contractor is found who is willing to undertake the work.

225. But suppose I were inclined to purchase any of these properties lying alongside the railway. Do you not think it stands to reason that I would say to the proprietor: “Yes I would like to have the property, but I am not certain where the railroad is to pass through it. If I could ascertain

that, I would have no objection to the present line; but there is a deviation of six hundred feet; and if the line were to run through a particular part I would object to purchasing the property." Do you not think I would have to give up the bargain, either, or wait three years, till the engineer has come to a final determination what line he will select?—Undoubtedly I should have no objection to buy lands under such circumstances, under the conviction that in the event of the line coming through a part of my property, I should be fully compensated under the Act for any damage received. Instead of the line being detrimental to me I think it would rather turn out to my advantage.

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226. *Chairman.*] Do you not think sufficient material for the railway can be got at the Camp Ground without giving the company the tremendous power of entering upon property and removing what they please?—I believe that abundance of material can be got without taking any valuable land for the purpose. The only object the company has in asking for the right is, that ballast may be required for topping up the railway, and may not be found at any part of the line or on the crown lands, at places easily accessible. It would be a hard case if they could not finish the railway for want of this ballast, and had not the right to go and get it near at hand by paying for it.

227. Could you not do that by private arrangement, without the insertion of this compulsory clause; could you not obtain what you require in the same way as private individuals obtain what they need?—We have been told in evidence here by some witnesses that their material has not got a price; that landholders will not sell for money. In that case if a landholder has a certain quantity of gravel, or stone wanted for building a bridge, suppose it is required, he may say "I will not sell; there is no way in which you can tempt me, so you cannot get the material."

228. But could you not get it from the adjoining lands?—I am speaking of material which might not be procurable from adjoining lands.

229. What material do you require that cannot be found on the Camp Ground?—Stone for bridges might be on a particular place, the owner of which might say: "You shall not come and take it for the railway, I will not let you."

230. But are you likely to require such expensive bridges?—I am not saying that such a thing will occur, but am

Mr. *T. Watson*, explaining that that is why the company wish to have the right conceded to them by the bill.  
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231. Can you not get what you want by private arrangement?—No; I have stated that the case may arise in which a particular kind of stone may be in abundance on the property of a person who will not sell. I do not think the clause is likely to be acted upon, because it is not probable that the company will put it in force unless unavoidably compelled. Still it is not desirable to expunge it, because then they would have no right to go under any circumstances. It is a clause which is usually introduced in English bills.

232. Do you think the capital will be forthcoming?—I have already said that that entirely depends upon the nature of the bill. I repeat that opinion; that except the bill before the Council is passed, my idea is, the railway will not be made at all; for if the contractor finds that the line will cost £20,000 more than the estimate, I doubt very much whether he would undertake it.

233. Then you have not ascertained yet that any parties are inclined to undertake the work?—What has been done so far is merely provisional. The carrying out of the work, I again repeat, depends upon the nature of the bill passed.

234. In England you are aware that parties have to pay up a certain portion of the capital of the company before Parliament will grant the bill?—I am not aware of such a provision. I know that it is customary to bind the parties signing for shares to pay a certain part of the capital in the event of the bill being carried out. It is very doubtful, I may add, whether we will get railways made in this colony if we subject them to some of the restrictions imposed in England.

235. May not the machinery be introduced into the colony, in regard to railways, that exists in England. Do you not think it is desirable that bubble companies should not be formed, and that bills should not be agreed to unless proper precautions are taken?—I cannot think that regulations of the kind alluded to will prevent bubble companies. The intention of the promoters of this bill is, to get the line made, and not to make profit.

236. If a clause were introduced requiring a certain amount of capital first to be paid up, and the company were liable to a penalty unless they completed the line, would that not protect the public?—I think it would effectually prevent

any lines whatever being made in this colony. It would be an entire prohibition of railways.

237. *Mr. van Breda.*] You have stated, that a notice was publicly given in the newspapers that the company was to be formed. Do you think that the landed proprietors saw that. Do they read the newspapers?—I may as well mention to the committee, that at the last meeting held of the provisional committee, three gentleman were appointed to go along the line and call personally upon all proprietors living in its neighbourhood. They have stated to me since that they performed that duty, though they have not drawn up any written report setting forth who have consented, and who have not.

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238. Do you mean these gentlemen went to every landed proprietor over whose property the rail was intended to go?—Where they were accessible, but in some instances, the proprietors were absent.

239. *Mr. de Roubaix.*] Who were the three parties alluded to?—Messrs. Logie, Landsberg, and Louw.

240. *Mr. Stein.*] Are not nearly the whole of the residents along the proposed line contributors to the preliminary expenses of survey, &c.?—Yes; nearly the whole of them.

241. And we have had a number of general meetings as well as committee meetings?—We have not only had meetings at Cape Town but at Rondebosch, Claremont, and Wynberg, of which meetings public notice was given and handbills were put up requesting all parties interested in the line to attend and give information.

242. Was this plan exhibited at those meetings?—It was exhibited at the public meeting called in Cape Town.

243. Did these parties then object?—Not that I am aware of.

244. Are they all subscribers?—Some of them put their names down, but never paid the deposit. I do not know whether that can be called subscribing.

245. *Chairman.*] They altered their minds perhaps, fancying that they might compromise themselves?—I do not know how they could form such an opinion because it was distinctly stated that they would incur no liability beyond the two shillings per share.

246. *Mr. de Roubaix.*] Did these parties attend any of the meetings to which you referred?—I have seen Messrs. Eksteen and Kotze both at those meetings.



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247. Did they raise any opposition?—I am not aware that they did. I believe that both are very much in favour of the bill, they only object to its terms.

248. Were they aware at that time that the rail would run over their property in such a way as it is now proposed to take it?—They did not know that when the thing was first started. Nobody of course knew what the direction would be; they merely went on the principle of making a railway.

149. Mr. *Stein*.] When was this plan first submitted?—On the 19th May, 1860.

250. Mr. *de Wet*.] Suppose this bill passes through both Houses and becomes an Act of Parliament, it may so happen that out of the 5,000 subscribers, 2,000 may feel inclined to agree to the provisions of the act, while 3,000 may say that they will have nothing to do with it; in that case the whole undertaking will fall to the ground, will it not?—I think it very likely if restrictions are put into the bill not intended by its promoters.

251. Is it not for this reason that no bill is introduced into the Imperial Parliament before a certain amount of the capital has been already paid?—I am not aware that there is such a provision in England.

252. I have before me the law of railways, from which what I have stated would appear to be the case?—I have said already I think it would not be advisable to encumber the introduction of railways into this colony with too many restrictions.

253. The object of the provision in England is that the legislature may not have the trouble of enacting a law which may not afterwards be brought into operation?—The company has already had communications with a wealthy contractor, who if a bill is passed with no unusual restrictions, is willing to enter upon the making of the line and to find the capital. If the bill introduced by the promoters of the undertaking is passed, or something like it, there is no doubt that the work will be carried out. But on the other hand I am quite certain that if the bill is clogged with all kind of unusual restrictions the work will not be carried out.

254. *Chairman*.] Are you aware that the five thousand shares have not been taken up?—Five thousand one hundred and seventeen were subscribed for by gentlemen who put down

their names as guaranteeing to pay the deposit of two shillings per share. Seven hundred and five of these have not paid, though I consider them liable, because they signed a list the heading of which was, that they bound themselves to pay it. The provisional committee, finding that these gentlemen had not paid, passed a resolution stating that the members of the committee themselves would pay the small balance, taking their chance of recovery from defaulters.

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255. Did not some shareholders object to the company proceeding until the deposit of five thousand shares was paid up?—It was on that account that a resolution was passed by the committee stating that they would hold themselves responsible to the extent mentioned.

256. Mr. *Stein*.] The principal objection raised by Mr. Eksteen was in regard to the power granted to the company of going on to private property to get land and other material. Where the line is short, do you not think that the principal material required by the company will be earth, and not ballast stone; and do you think that if they were restricted in obtaining that, to the immediate vicinity, within the deviation line, that would satisfy both promoters and objectors?—I think it would do more injury than good. My own opinion is that all the limits of deviation are sufficient for finishing the line, but it is a matter for the engineer.

257. *Chairman*.] Who is the engineer to the company?—The only engineer was Mr. Hart, who is now in another part of the colony.

258. Then there is no engineer to give us any information?—He is at Somerset East.

259. Could Mr. Brounger give the committee information?—He knows what has generally been done, though not acquainted with all particulars.

260. Mr. *Stein*.] He is one of the provisional committee, is he not, and has attended several meetings?—Yes.

261. Mr. *de Roubaix*.] Then is the committee to understand that if these amendments proposed are made in the bill the project will be abandoned,—because the bill will be good for nothing?—I doubt whether any contractor or company would undertake the project if there are more restrictions than are in the bill at present.

262. But how would you protect landed proprietors from so great a loss as is said to threaten them?—The provisions of the bill protect landed proprietors fully against all loss.

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263. Then how is it they object?—I am quite at a loss to know.

264. You suppose that with a restricted bill no contractor will be found willing to undertake the work?—That is my opinion, but of course, it is only an opinion.

265. *Chairman.*] In England there are so many anxious to undertake works of this kind that by liberal payment you could easily induce them, I suppose?—The difficulty is to get the liberal payment; who will find the money.

266. But still you think contractors can be found to complete it?—It is impossible for me to give an opinion on that point. I only give my private opinion that if a worse bill than is now before the Council is passed, the railway will not be made; because no contractor can be found to entertain it; no company formed to undertake it.

267. But do you not think that for payment they will even take material from the Cape Flats?—It would cost more than the present estimate; but of course, with liberal payment it could be done.

268. *Mr. de Wet.*] Several railroads which were commenced in England, we know were afterwards abandoned. How do you account for that?—In some instances, there were short lines.

269. Of course, this was done to the detriment of the proprietors of land?—I think not. In all cases the proprietors of land I believe were compensated.

270. Are you aware of the causes which led to the abandonment of the undertakings in the instances mentioned?—In some cases the line was altered because a cheaper line could be made, and the company would rather pay compensation to the proprietors injured than incur the extra expense of carrying out the whole line.

271. Are there not instances upon record in which the undertaking has failed also for want of capital?—I am not aware of any. They generally found means, where the capital was exhausted, of borrowing on the security of that part of the line already constructed.

272. But at the very commencement, when railroads were first introduced, was not the capital insufficient?—In the first commencement between 1825 and 1845, railroads were in all instances carried out. At a later period about 1845-7, during the railway mania, several bubble companies were started which had not sufficient capital, and in some

instances became very much involved before the railroad was finished.

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273. What I mean is, may not the present managers be so sanguine in their expectations of success that, with a limited capital, they may at once commence operations, whilst in the course of time subscribers may fall off and the company fail in performing its duty?—I think there is no chance of that, because the contractor will give security for finishing the line.

274. May not the undertaking fail in consequence of the shares not being taken?—If any gentleman would take the trouble to look over the list he can have no doubt about the subscribers being able to keep their engagement if they are willing. I think there is no likelihood at all of the undertaking falling through for either of the grounds mentioned.

275. Mr. *de Roubaix*.] You know that certain alterations were made in the original bill by the Assembly committee?—Yes.

276. By mutual consent?—The parties objected to some of the provisions and attended several meetings of the committee. Their objections were discussed and matters were arranged, and I had not the slightest idea that any further opposition would be raised, because the bill as sent to the Council is really the bill of the objectors. All their objections of any consequence were met by that bill, so that I thought there was an end of the matter.

277. Was the clause providing the three modes of compensation an original clause of the bill?—The bill originally took over the power of the road boards. Objection was raised and then it was agreed to refer the matter to arbitration in a different form. That also was objected to, and finally the arbitration clause providing for a reference to a jury was inserted by common consent.

278. Mr. *Stein*.] On the Wellington line, in awarding damages, reference is also made is it not to the indirect advantages derived by the proprietor from the construction of the rail. In this clause there is no such provision, but the company is to pay the full value without any reference to the indirect advantage, say, by having a station on one's land. Was the present provision put in the original bill or was it put in while the bill was before the Assembly?—This is an exact copy of the municipal arbitration clause and is in reality the clause of the objectors. The promoters of the

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bill wished to have an alteration made in the clause, and an amendment was moved to the effect that the arbitrator should consider on the one hand the damage done, and on the other the advantage the proprietor derived by the construction of the railway. That was objected to by parties in the Assembly, and the promoters consented to withdraw the amendment.

279. Mr. Eksteen stated to the committee that some of his objections were not regarded by the Assembly committee; is that so?—I am under the impression that these are additional objections which are the after thoughts of Mr. Eksteen and not matters brought before the Assembly. I am now only speaking of what was brought forward by counsel; what the private opinion of these parties may have been I do not know.

280. *Chairman.*] Mr. Eksteen requests me to ask whether the objections he now urged to allowing the company to dig, excavate, and carry away and as to the width of the deviation line were not distinctly stated by him in the other place?—Those objections were stated at the beginning of the discussion and counsel was instructed to make the objections; but after the discussion, and after the question had been fully entered into, these matters were all arranged under the new clause of arbitration which was inserted to meet their objections.

281. Mr. *de Roubaix.*] Were they present when the alterations were made?—The committee made the alterations with their consent; and a minute was made at the time that it was mutually agreed that the municipal clause with reference to arbitration should be inserted in the bill. I never knew that Mr. Eksteen objected to the company going and digging on private property but rather to the means provided for compensating for the damage so occasioned.

Mr. J. F. Kotze examined.

Mr. J. F. Kotze. 282. *Chairman.*] You are a landed proprietor at Mowbray?—I am.

283. And one of the parties who petitioned the Council against this bill being passed in its present form?—Yes.

284. The petition sets out by stating that no definite line has been laid down. Has the surveyor pointed out a definite line to you?—He never came to me, nor have I received

any communication about the line. I do not know exactly where it is to pass.

285. You also state in the petition that the deviations are objectionable. Do you think they should be altered?—I think it will be very dangerous if the clause should remain as it is, because a deviation of 630 feet, including the rail, will bring the boundaries of my farm close to my buildings. In what position am I then? My buildings cannot be insured, for they are all thatched, and if you go to any public office they refuse to take the insurance.

286. Mr. *de Roubaix*.] Or you have to pay a higher premium?—Yes.

287. *Chairman*.] You think they would not even insure at a higher premium?—I know that Mr. Blomeken at Salt River, has tried everywhere to effect an insurance, but he could not succeed since the railway was passed.

288. Before, he could?—Always.

289. So you think that a clause should be introduced compelling the company to put on other roofs, or to purchase the property at the option of the proprietor?—Most undoubtedly.

290. You object also to the clause by which the company reserves to itself the right to dig, excavate, and carry away material from private property; you think that is not desirable?—I think it would be a very hard thing if that clause were to remain. It is proposed according to the plan before the committee that the railway should go over the whole extent of my ground, from one end to the other, that is nearly four thousand feet; and in that four thousand feet they are to fill up with an embankment for a long distance. I am sure that embankment will be six or seven feet high. I do not wish to allow the company to come on my property and destroy all my beautiful land. My principal income is from my farm; I keep a dairy. They have lately found out that along the whole of my field there lies a certain depth of gravel. Now instead of going, as the bill provides, to Camp Ground, where they can get abundance of stone, do you think the contractor will do so? No; he can get it in the immediate vicinity of the line, and he will ruin my whole place. What then is to become of my principal source of income? Is not that a good reason for me to complain? Is it not a hardship to me if that clause is to remain? It is just the same as if you were to come and tie me and throw me in the river.

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It is as much as to say that I am not any longer the owner of the property, but that they can come there and take whatever they like. Compensation? What compensation can they give me? My whole property is destroyed. But further they have the statement of their own engineer that there is sufficient ground to finish the railway with within the thirty feet allowed for the rail itself. What then can be the object of the company in not giving in with regard to this clause? There is something behind the curtain.

291. Mr. *van Breda*.] You say you live from your dairy, and you also sow upon your land for winter forage for your cows?—Yes.

292. Do you think your income will be much depreciated?—Yes. Besides, they only give me one entrance to the public road, although it is more than 4,000 feet of ground to go over. I am entirely blocked up therefore. According to that plan they cut my property in half nearly. There are two or three persons already who have come to me before the plan of the railway was known and said “Do you wish to sell your land?” But since they have seen the plan they say “We won’t give you anything for it.” What is that piece worth to me? It is on the other side of the rail; it is a total loss to me.

293. Do you not think the company should take over the ground?—It is no more than fair that the company should take over the ground, and pay me for it.

294. Mr. *van Breda*.] After the rail passes over your ground, and your land is cut up, of course, you cannot go on farming as you do now?—I cannot sow the half of my crops, and I will be obliged to sell all my cows, keeping only two or three, for I keep my cows on the upper part during the winter, just where the rail goes forms my winter pasturage and sowing ground.

295. I suppose your consent has never been asked or obtained?—No.

296. Has nobody ever called on you,—Mr. Landsberg, Mr. Logie, or anybody else, on the subject?—No.

297. You have received no written notice?—None whatever.

298. I see you object also that if the line of rail is commenced your land should not be allowed to remain open, but should be fenced in, so that the workmen should not commit depredations?—I think it is no more than fair that the

company should do so ; because I am field-cornet of the Mr. J. F. Kotze  
Liesbeek River, and I have seen the navvies going on with  
the work there. Several times people in that neighbourhood  
have complained to me ; but it is no use. These people are  
such a rough set of fellows, they do whatever they like on your  
property, and if they are found trespassing they will come with  
ten or twelve or fourteen witnesses, and swear that black is  
white. There you are ; and how can we always prevent  
this unless we are always at watch there, with sufficient wit-  
nesses to see what damage is done. Therefore I think that  
under these circumstances it is not more than fair that my  
property should be fenced in when they commence working.

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299. Could another line have been selected that might have been less objectionable ?—I think they could have got a better line if they had gone a little higher up to the road, near the boundary of my place. I am sure that line would have cost half the money.

300. But how would you then run over the properties in the way ?—There are only two or three buildings, which would have to be pulled down. I think that would be a better line, and I always heard that would be the first proposal.

301. *Chairman.*] And do you think they should first stake out the line they intend to take for the railway ?—I am firmly of opinion that before they do anything they should be obliged to show the landed proprietors the exact line where the rail is to run.

302. And that they should not have the right to deviate three hundred feet on each side ?—Certainly not. For instance if I wished to sell my place at the present moment I could divide my property in any way I liked. But I am in such an uncertain state where the line is to come that I do not know what to do ; I must wait three years first to see what is to be done. I am on my own property, but I am knee-haltered for three years, and can do nothing. I leave it to the committee to decide whether that clause should be retained.

303. *Mr. de Roubaix.*] Do you mean that you want to sell your land now in building lots ?—No ; but if I should intend to sell it, I am bound down by the Act for three years not to undertake it.

304. *Mr. van Breda.*] I think you stated, Mr. Kotze, that an offer was made to you for part of your property for



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building purposes?—Yes; but since it has been ascertained where the railway is to come the party said that he did not want it, as he cannot use it for building purposes. It is a slip of ground between Mr. Pilkington's boundary and mine, bounded on one side by landed proprietors and on the other side by the railway.

305. Mr. *de Roubaix*.] Do you not think that if the railway is completed it will be very advantageous to landed proprietors in that locality?—I doubt it. With regard to the petition presented to the Council the other day in favour of the bill, on looking over the names I find that they are nearly all parties living at Claremont and Wynberg, not one of whom is interested in the line, because the line will not touch their property. The only one who is interested is Mr. Steedman, who was first with us strongly. He came to me and said: "I hope you will assist me; we should support one another." But the company has deviated from its first intention. First the line was to go near Steedman's door, and now they put it behind, which makes all the difference.

306. What we want to know whether your property will not be benefitted by having this railway?—I do not think it will be of so much benefit as I have heard it stated. What I have mentioned about the one slip of land proves this.

307. You would be benefitted, but not to the extent stated before the committee?—No.

308. *Chairman*.] Will not the projected line decrease the value of the Hermitage property?—If that were my property I would not like to live there, nor should I ever like to hire one of the buildings there to live in if you gave it to me for a very trifling rent. That is my firm belief.

309. I believe you stated some of your objections to another place?—Yes.

310. You objected to the carrying away of gravel and other matters of that nature?—Certainly; according to the clause they would have a right to go on my property and take away any material they liked, whatever it is, and I cannot help it, but am bound to submit, according to the act.

311. You think that a very prejudicial provision?—Yes.

312. And your objection was not attended to in another place?—Not at all.

313. Was your evidence recorded; for I cannot find any trace if it?—I know it was not taken down. I particularly

stated to the chairman that it was one of our objections but there was nothing put down of what I said about it. I said the principal thing that we petitioned against was that these parties should have the right to come on our property and dig, excavate, and carry away that they pleased ; but no answer was given me.

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314. As fieldcornet of your district you know the locality round about?—Perfectly.

315. Is there sufficient material on the Camp Ground for the railway?—There is enough for three railroads and more ; if they wish to make five railways they can do so without troubling the landed proprietors. There is clay and sand and they can get as much gravel as they like, thousands of loads. The whole Camp Ground is one mass of iron stone.

316. Mr. *Wicht.*] And for the bridges they can get the stone that they require?—At any place.

317. So that there is no necessity to have this additional clause?—Not at all.

318. Did you attend the preliminary meetings which were called?—I recollect having attended one, after parliament was broken up, when the bill was introduced the first time. Mr. Watson then stated, as the secretary of the company, that everything was arranged, that the parties were satisfied, and that everything was beautifully settled, and that there was nothing in the way of their coming together and getting a new bill introduced into parliament. I could not help standing up immediately, because I thought that what was stated was not correct. Mr. Reid tried to put me down, and several other very interested persons also tried to put me down, by saying that I had no right to speak, not being a shareholder. Well, I had the government paper in my pocket, and I said “Then you have made a mistake in your advertisement ; you do not say that only subscribers were to meet, but that it was a general meeting.” Therefore Mr. Solomon who was present insisted that I should be heard, as it was a public meeting. I then stated my views ; Mr. Watson has denied it, but I was present and went against the bill, and gave my reasons against some provisions they were going to introduce. Therefore Mr. Watson is wrong in stating that I ever consented to the bill, for at that meeting I spoke against it. I only attended one meeting, but I could not be silent when I heard such statements made at that meeting.

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319. Mr. *Stein*.] You say that gravel could be got in sufficient quantity on the Camp Ground, but will not the expense of bringing it from Camp Ground alone be very considerable?—I don't think so; and although it should be, am I, as a landowner, to suffer for the benefit of a private company? Because they wish to make the thing profitable am I to suffer?

320. But the bill says that you are not to suffer; that you will be paid full compensation?—Suppose I am not satisfied with the offer made me, and I go to a jury and a certain sum is allowed me, how does that help me? The ground is destroyed and although I should get a certain sum of money for it, the value of my property is much depreciated. Is it fit for sowing? Can I do anything with it? Can I ever use it again for grazing? Is it not a total loss to me.

321. If the gravel be taken away, is it not compulsory to lay the soil over again?—In what way am I to compel the company to level the ground again?

322. Or charge for doing it?—Perhaps they give me £300 or £400 or £500 for destroying my property, which is worth thousands of pounds to me year after year. I must give up my principal source of income to make this railway; for what will my farm be worth if such a line is carried out.

323. You said just now that it would no doubt increase the value of the land although not to the extent some people fancy. Supposing you were obliged to give up your present occupation as a dairy farmer, would not the income you would derive from the extra price your land would fetch for building purposes perhaps compensate you?—I do not see how I would benefit by it. Just the contrary. I have pointed out that I had a purchaser before the railway was thought of, but now the man will not have the ground. If the exact line were shown to the inhabitants I believe that all difficulty would be removed.

324. You object to a deviation line?—Most undoubtedly I do.

325. Are you not aware that it is to give the company an opportunity of meeting objections on the part of individuals by altering the plan if possible?—I have picked up a little experience from what I have seen has taken place on the trunk line to Wellington, where I have seen that they did not like to give in to individuals. I know one individual

who has become a great sufferer by his most beautiful vines having been cut up and destroyed, and I have seen a more fortunate friend paid three times the value of uncultivated land close by.

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326. Mr. *de Roubaix*.] But the Cape Town and Wellington railway bill did not contain this arbitration clause?—No ; it does not.

327. When you said just now that a better line could be found, did you mean a better line as far as your own property is concerned, or generally speaking?—Generally speaking. If the bill should pass, and if they come over my property in the way they now propose, they certainly must give me very good compensation, because I can prove the value of my ground ; but if the rail is moved a little higher up towards the public road it would make a great difference.

328. *Chairman*.] Do you think the contractor and the company ought to be bound by penalties to complete the line?—Most decidedly, if such powers are granted. I see that a memorial is about to be presented to the Council to-day in favour of the railway, but it will be found that a great many signatures have been withdrawn because the parties have since found out that this eighteenth clause is a monstrous one. Mr. Morgenrood has told me that he signed it and was sorry for it, for he now finds my statement is correct.

329. Can you account for it then why these individuals have not come forward sooner and joined those who originally signed the memorial to the Council against the bill?—It is through carelessness. I have seen it mentioned in the paper that some Members of Parliament have stated that they do not read the newspapers. It was only because I happened to have the bill in my pocket and showed it to Mr. Morgenrood and two or three others, that they saw that I was right. They at first urged me to give in and let the bill pass, but I said no, I would not give in while it contained such a clause. They asked what clause, and I then read it, to which they replied that they had never been aware that there was such a clause in the bill, that they were against it entirely, and that I was in the right in going against it also, but they had never paid any attention to the matter.

330. Mr. *de Roubaix*.] Did you explain the compensation clause to these parties?—No ; I did not. Mr. Morgenrood

Mr. *J. F. Kotze*. said to me that if the rail passed close to his house it would take away all his ground in front, and then what would his property be worth?  
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Mr. Alewyn stated, in reply to the Chairman, that he concurred with Mr. Eksteen's evidence; and mentioned that one of the lines of deviations ran through his drawing room; that he wished to sell his house but there was such uncertainty that it would be difficult to dispose of it.

Mr. *H. G. Brounger* examined.

Mr. *Brounger*. 331. *Chairman.*] You are engineer to the Cape Town and Wellington Railway?—I am.

332. And a member of the Provisional committee of the Wynberg Railway Company?—Yes.

333. Can you state any reason why the line pointed out by the plan now before the committee was selected in preference to any other?—That was settled by the engineer, and I presume he tried the different levels.

334. Is he a man of much professional experience?—I should be very unwilling to pass an opinion upon a fellow professional man.

335. He has only lately arrived in the colony, has he not?—I do not know; I cannot say.

336. Mr. *Stein.*] Were not very satisfactory certificates submitted by him from his employers in England under whom he served his apprenticeship?—I really do not know much of the circumstances. I was purposely absent when these matters were settled, for being a professional man myself, I thought that the better course to take.

337. *Chairman.*] Has your opinion been consulted in regard to this line?—I have not been consulted.

338. Are you acquainted with the position of the ground over which the railway will run?—Generally, but not in detail. I have walked over the country down as far as Mr. Letterstedts from Cape Town.

339. Mr. *de Wet.*] What was the opinion you then formed; that the line would be cheap or expensive?—Not very expensive, I should say.

340. Then you think it could be done with great success?—I think so.

341. No large embankments or ravines?—I have not seen the sections since before the last session of Parliament, but

as far as my recollection serves me, there were no heavy works.

342. *Chairman.*] From your knowledge of railways do you think that the parties who have complained will suffer materially in a pecuniary point of view?—Not beyond what provision has been made they should be compensated for.

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343. You think the clause contains ample provisions in that respect?—I think so, and more than ample.

344. But in England a company must first obtain the certificate of a certain officer, must it not?—Not necessarily. The usual practice was complied with in this case; a notice was published that such and such an act was intended to be applied for, passing through the properties of such and such people, in order to give landed proprietors an opportunity of opposing it if they thought fit.

345. There was no constituted authority was there, before whom they could be summoned?—Notice was given that application would be made to Parliament, and to Parliament therefore naturally must be addressed any opposing petitions.

346. In England it is usual to give individuals notice also, is it not?—I am aware that they are very restrictive in England in the matter of railways; but I should be very sorry, for the progress of this colony, to see the whole of the restrictions in force there introduced here. The costliness of getting a bill through Parliament in England is proverbial; and if we were to adopt all the rules that it is necessary to follow there, it would probably be practically putting an end to the construction of railways in the colony.

347. But do you not think that the landed proprietors should be protected, and that some functionary should go over the land, and ascertain whether they consent or dissent?—I think the landed proprietors are protected in every way; but at the same time it may be the case that individuals may suffer personal inconvenience, which they are bound to do for the good of the public. It is impossible to lay down a line of railway without injuring somebody and displeasing some parties.

348. Do you not think that that is an objectionable clause in the bill which gives the company the power of entering private property for the purpose of procuring the necessary material, and that the annoyance which is likely to arise from that cause, ought, if possible, to be avoided?—To be in accordance with the English custom, power to take materia

Mr. Brounger. should have been kept within the limits of deviation. The company, however, will certainly not take more than is necessary, and will have to pay extravagantly, probably, for every foot of ground it takes.

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349. But in order to meet the objection raised, may it not be sufficient to give the company the right of procuring material from Government ground, instead of entering in this way upon private property?—Without knowing the details of the case and the particular kinds of materials that are procurable, I should say it would not be sufficient; for the cost of hauling the material to different parts of the line would be very considerable indeed.

350. If the railway be completed to Wellington, will that not materially assist the company in procuring the necessary material from the Flats, or thereabout?—I should think they ought to be able to procure it at much less cost in the neighbourhood of their own line than of the other.

351. Mr. *Wicht*.] Could they not get it from Camp Ground?—I am not aware what material is to be had there; but I suppose that the cost of conveyance would be very considerable, as it would have to be brought wherever it would be required by ordinary carts and wagons. There are certain protective requirements in England, to the effect, that such excavations should not be made from material in private gardens, gentlemen's parks, and pleasure grounds; but with that exception power is given to companies there to take such materials as they require within the limits of deviation.

352. Do you not class Mr. Eksteen's property under that category?—Scarcely. Then if it is absolutely necessary that such general power should not be given, it is necessary that the company should have the power to take as much material as is necessary for making the embankment from the immediate neighbourhood. I am not aware whether by the details of the section the cuttings are so arranged as to provide sufficient material within a reasonable distance for the formation of the embankment. If they are not, it must of necessity materially affect the formation of embankments. But the contractor can so arrange as to take the material close to the embankment, in a little strip along the side, without going very far from the railway; for every foot you go from the rail necessarily increases the cost of executing the work.

353. Mr. *van Breda*.] The rails through the Imhoff are only seventeen feet?—Yes, from rail to rail.

354. And here it is thirty?—But this is a totally different case. In the first place you require several feet beyond the rail for the extent the locomotives and carriages reach over it. Then there must be room enough for a man to stand with safety. There must be a sufficient space between the carriage and the fence, so that in the event of a train passing you may be able to stand there with safety.

355. But you would have thirteen feet left, six and a half of each side; would that not be ample?—To the best of my recollection thirty feet is the least possible amount.

356. I believe you are a shareholder in the company?—Yes.

357. As a shareholder, have you not looked over the ground to see whether another rail could not be laid in a better position?—No.

358. What would you recommend for preventing any depredations being committed by people working on the railroads in the gardens and other cultivated ground alongside?—No such fences as are ordinarily used on railways will keep people out if they are disposed to trespass; but I do not think any serious damage is likely to result. These workmen, though not a sober class of people, are harmless, and perhaps more fond of beer than grapes. I think therefore, that though a little inconvenience is likely to result, it cannot be much. The time is so short.

359. The company has three years?—But it would not pay the company to be working three years. They must get done in a few months.

360. Mr. *de Wet*.] What is your opinion, will it not jeopardise adjoining property to have the engines constantly passing?—I did think there would be considerable danger to thatched houses from this cause; but the engine has been running close to a thatched house near Salt River for a much longer time than I ever anticipated, without ever setting fire to it.

361. Did the fire in the plantations not arise in this way?—I believe Mr. Bell, the government surveyor, was of a different opinion, and to the best of my knowledge reported to that effect.

362. Still there is a possibility of increased danger?—Undoubtedly.

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363. Could not a line be pointed out without necessity for deviation?—One main object in laying out a line is to get as near as possible, especially in an omnibus line, to the dwellings of the people. If the line be kept down close to the river, it will be away from all buildings, and the station will be so far from the high road that it will materially interfere with the traffic expected.

364 *Chairman*.] Could not the station come near the road with a sweep?—Turns are not made so rapidly on railways.

365. Could it not come round with a sweep, in the segment of a circle?—That would damage property more than at present.

366. Could not a definite line be staked out at once without the contractor having the liberty to deviate?—I should think the contractor should have no power to deviate an inch.

367. But here the power is proposed to be given?—To the company; but the interests of the company are totally different, of course, from those of the contractor. I should think it not at all wise to hand over to the contractor any such powers as are contained in this bill.

368. *Mr. de Wet*.] Do I understand you then to say that when the line is laid down the contractor should not have the right to deviate unless he has the concurrence of the company?—I should think so. If I were a director I would never think of giving such power to the contractor.

369. *Mr. van Breda*.] What provision is made in the plan for cross-roads?—No details are given.

370. *Mr. de Wet*.] In your opinion could the term of six years, three years for commencing and three years for completing the railroad, be reduced?—I should hope, if the bill be carried, to see the work completed in less than three years from the present time.

371. Would it not be well if a certain lesser time be fixed as the limit, say a year and a-half for commencing and a year and a-half for finishing?—A year and a-half would not be enough for finishing. I do not mean to say it is impossible to execute the work in that time, but there are contingencies which can scarcely be foreseen, and therefore, it would not be right to limit the company to so short a time. The reason why so much as three years was allowed by the other House is probably because no Government guarantee is to be given

to the line, and there may thus be great difficulties in getting the necessary capital. It is, therefore, considered necessary to give the company time to try various means. They will very likely first seek the capital on the spot, and, if it is not to be had here, will probably go elsewhere to raise it. As a general rule in this world, the best safeguard is a man's interest. The expenses of the company will run on from the time of its formation, and it will, therefore, be its interest to get the whole thing done as soon as possible. It is the lingering delay in carrying out such undertakings which causes such ruinous cost in their completion.

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372. But may not the company, against its own wishes and inclination, be placed in such a position that it cannot commence the line, and will not the landed proprietors be in a state of uncertainty all this while, whether and where their property is to be cut up?—I do not see that the landed proprietors can suffer much from that cause.

373. Suppose I were inclined to purchase the property of Mr. Eksteen at a fair price, would it not be a material thing to me to know whether the line would pass through one part of that property or another, by which a plan of improvement I had in view may be entirely defeated? Mr. Alwyn states, for instance, that he intends to sell his house, but that one of the proposed lines of deviation runs through it. What individual, under such circumstances, would strike a bargain with him?—If I were desirous of buying the house I should probably find amongst the directors some friend who, without divulging the secrets of the company, would tell me whether it is likely that such a thing would take place. If I could not discover it in that way I would judge for myself in the best manner I could, being satisfied that I would be fully indemnified under the worst circumstances possible. There are in all these cases certain inconveniences which a man may run, but which he is bound in a certain measure to run, for the public good. This is a work for the public advantage. The committee is, I think, composed of thirty or forty influential gentlemen whose names are a guarantee for the respectability and *bonâ fide* nature of the undertaking, and they would not commit more injury, I am sure, than was really necessary for the completion of the work.

374. *Chairman.*] At the same time is it not necessary that a certain portion of the capital should be forfeited, or some

Mr. *Brounger*. other penalty inflicted, in the event of the company not succeeding after all in carrying out the work, though it has long kept the landed proprietors in this state of suspense?— I think it is impossible to get railways carried out in this colony on the same principle as at home. I am sure you will get no proprietary here to bind themselves down as they do in England. In the next place this is an undertaking for the public good. There is not a single individual connected with the undertaking who will derive any advantage directly or indirectly, except the advantage of being able to travel in a comfortable way and at a good speed, instead of having to travel per omnibus, where our lives really are in jeopardy.

375. Mr. *de Roubaix*.] And the prospect, I suppose, of property being perhaps increased in value?—Enormously.

376. *Chairman*.] Property through which the line merely passes?—The stations are so conveniently situated that no one will have far to go.

377. Mr. *Stein*.] Considerable stress has been put by several of the petitioners against the bill on the objectionable character of the clause allowing the company to take ground and material from private property. You throw out that, in England, such permission is only granted within the line of deviation?—To the best of my recollection.

378. Would you, from your knowledge of suburban lines, which, of course, from their peculiar position, must be viewed apart from other lines, throw out any suggestions that would meet the reasonable fears of these parties in regard to that objectionable course?—The company must necessarily have power to take what is necessary to form embankments and cuttings. The restriction alluded to might do very well as regards excavating for gravel, clay for bricks, and stone; but it is a matter of absolute necessity that sufficient ground should be allowed the company to excavate material for the embankments themselves.

379. How much would be necessary?—According to the height of the embankment.

380. In suburban lines in Europe, is it customary to give a deviating line to railway companies?—Not in going through thickly-populated parts. The opposition would be so great that authority would very likely not be given, and it is customary, therefore, in such cases, to build brick arches over which the railway is to run,—at a cost, however, which

in this colony would be fatal to any undertaking of this kind. *Mr. Brounger.*

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1861.

381. That is in going through towns?—Yes.

382. But in suburban lines like the one now proposed, is it customary to give a certain extent of deviation before the line is finally determined on?—I should say so.

383. Is it understood that when a line is once laid out, or when everything is once fairly in working order, no power is allowed the company to act afterwards upon the deviation right?—Certainly.

384. That power is only necessary before the line is definitely fixed?—Yes. All railway companies have the right to go on adjacent property for what they require for the repair of the line. I recollect a case between the Duke of Bedford, I think, and the London and Birmingham Railway company, tried before the Vice-Chancellor, when that principle was laid down.





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